

(II) standardizing contract mechanisms to be used by the Foundation in engaging with National Laboratories; and

(III) streamlining the ability of the Foundation to fund endowed positions at National Laboratories;

(ii) to allow a National Laboratory or site of a National Laboratory—

(I) to accept and perform work for the Foundation, consistent with provided resources, notwithstanding any other provision of law governing the administration, mission, use, or operations of the National Laboratory or site, as applicable; and

(II) to perform that work on a basis equal to other missions at the National Laboratory; and

(iii) to permit the director of any National Laboratory or site of a National Laboratory to enter into a cooperative research and development agreement or negotiate a licensing agreement with the Foundation pursuant to section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(B) DEPARTMENT LIAISONS.—The Secretary shall appoint liaisons from across the Department to collaborate and coordinate with the Foundation, including not less than 1 liaison from the Office of Technology Transitions, who shall ensure that the Foundation works in conjunction with the Technology Commercialization Fund of the Department.

(C) ADMINISTRATION.—The Secretary shall leverage appropriate arrangements, contracts, and directives to carry out the process developed under subparagraph (A).

(7) NATIONAL SECURITY.—Nothing in this subsection exempts the Foundation from any national security policy of the Department.

(8) SUPPORT SERVICES.—The Secretary may provide facilities, utilities, and support services to the Foundation if it is determined by the Secretary to be advantageous to the research programs of the Department.

(9) ANTI-DEFICIENCY ACT.—Subsection (a)(1) of section 1341 of title 31, United States Code (commonly referred to as the “Anti-Deficiency Act”), shall not apply to any Federal officer or employee carrying out any activity of the Foundation using funds of the Foundation.

(10) PREEMPTION OF AUTHORITY.—This subsection shall not preempt any authority or responsibility of the Secretary under any other provision of law.

(11) TRANSFER FUNDS.—The Foundation may transfer funds to the Department, which shall be subject to all applicable Federal limitations relating to federally funded research.

(12) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 2117(a)—

(i) not less than \$1,500,000 shall be for the Secretary for fiscal year 2022 to establish the Foundation;

(ii) not less than \$30,000,000 shall be for the Foundation for fiscal year 2023 to carry out the activities of the Foundation; and

(iii) not less than \$3,000,000 shall be for the Foundation for fiscal year 2024, and each fiscal year thereafter, for administrative and operational costs.

(B) COST SHARE.—Funds made available under subparagraph (A)(ii) shall be required to be cost-shared by a partner of the Foundation other than the Department or a National Laboratory.

(C) NATIONAL ENERGY TECHNOLOGY LABORATORY-ASSOCIATED FOUNDATION.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the National Energy Technology Laboratory may establish, or enter into an agreement with a nonprofit organization to establish, a Federal Labora-

tory-Associated Foundation (referred to in this subsection as a “Laboratory Foundation”) to support the mission of the National Energy Technology Laboratory.

(B) NOT AGENCY OR INSTRUMENTALITY.—A Laboratory Foundation shall not be an agency or instrumentality of the Federal Government.

(C) GOVERNANCE STRUCTURE.—A Laboratory Foundation established under subparagraph (A) shall have a separate governance structure from, and shall be managed independently of, the National Energy Technology Laboratory.

(2) ACTIVITIES.—Activities of a Laboratory Foundation may include—

(A) conducting support studies, competitions, projects, research, and other activities that further the purpose of the Laboratory Foundation;

(B) carrying out programs to foster collaboration and partnership among researchers from the Federal Government, State governments, institutions of higher education, federally funded research and development centers, and industry and nonprofit organizations relating to the research, development, and commercialization of federally supported technologies;

(C) carrying out programs to leverage technologies to support new product development that supports regional economic development;

(D) administering prize competitions—

(i) to accelerate private sector competition and investment; and

(ii) that complement the use of prize authority by the Department;

(E) providing fellowships and grants to research and development personnel at, or affiliated with, federally funded centers, in accordance with paragraph (3);

(F) carrying out programs—

(i) that allow scientists from foreign countries to serve in research capacities in the United States or other countries in association with the National Energy Technology Laboratory;

(ii) that provide opportunities for employees of the National Energy Technology Laboratory to serve in research capacities in foreign countries;

(iii) to conduct studies, projects, or research in collaboration with national and international nonprofit and for-profit organizations, which may include the provision of stipends, travel, and other support for personnel;

(iv)(I) to hold forums, meetings, conferences, courses, and training workshops that may include undergraduate, graduate, post-graduate, and post-doctoral accredited courses; and

(II) for the accreditation of those courses by the Laboratory Foundation at the State and national level for college degrees or continuing education credits;

(v) to support and encourage teachers and students of science at all levels of education;

(vi) to promote an understanding of science amongst the general public;

(vii) for writing, editing, printing, publishing, and vending of relevant books and other materials; and

(viii) for the conduct of other activities to carry out and support the purpose of the Laboratory Foundation; and

(G) receiving, administering, soliciting, accepting, and using funds, gifts, devises, or bequests, either absolutely or in trust of real or personal property or any income therefrom, or other interest or equity therein for the benefit of, or in connection with, the mission of the applicable Federal laboratory, in accordance with paragraph (4).

(3) FELLOWSHIPS AND GRANTS.—

(A) SELECTION.—Recipients of fellowships and grants described in paragraph (2)(E) shall be selected—

(i) by a Laboratory Foundation and the donors to a Laboratory Foundation;

(ii) subject to the agreement of the head of the agency the mission of which is supported by a Laboratory Foundation; and

(iii) in the case of a fellowship, based on the recommendation of the employees of the National Energy Technology Laboratory at which the fellow would serve.

(B) EXPENSES.—Fellowships and grants described in paragraph (2)(E) may include stipends, travel, health insurance, benefits, and other appropriate expenses.

(4) GIFTS.—An amount of funds, a gift, a devise, or a bequest described in paragraph (2)(G) may be accepted by a Laboratory Foundation regardless of whether it is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest of the funds, gift, devise, or bequest is for the benefit of the research and development activities of the National Energy Technology Laboratory.

(5) OWNERSHIP BY FEDERAL GOVERNMENT.—A contribution, gift, or any other transfer made to or for the use of a Laboratory Foundation shall be regarded as a contribution, gift, or transfer to or for the use of the Federal Government.

(6) LIABILITY.—The United States shall not be liable for any debts, defaults, acts, or omissions of a Laboratory Foundation.

(7) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, a Laboratory Foundation may transfer funds to the National Energy Technology Laboratory and the National Energy Technology Laboratory may accept that transfer of funds.

(8) OTHER LAWS.—This subsection shall not alter or supersede any other provision of law governing the authority, scope, establishment, or use of nonprofit organizations by a Federal agency.

SA 1587. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title I of division F, insert the following:

Subtitle —U.S. MADE ACT

SEC. 61 . SHORT TITLE.

This subtitle may be cited as the “United States Manufacturing Availability of Domestic Equipment Act” or the “U.S. MADE Act of 2021”.

SEC. 61 . DOMESTIC PURCHASING REQUIREMENT FOR PERSONAL PROTECTIVE EQUIPMENT ACQUISITIONS FOR THE STRATEGIC NATIONAL STOCKPILE.

Section 319F-2(a) of the Public Health Service Act (42 U.S.C. 247d-6b(a)), as amended by section 4153(f)(3), is further amended by adding at the end the following:

“(7) DOMESTIC PROCUREMENT REQUIREMENT FOR PERSONAL PROTECTIVE EQUIPMENT.—

“(A) REQUIREMENT.—Except as provided in subparagraphs (C) and (D), funds appropriated or otherwise available to the Secretary for the Strategic National Stockpile may not be used for the procurement of an

item described in subparagraph (B) unless the item was grown, reprocessed, reused, or produced in the United States and meets all applicable requirements of the Food and Drug Administration.

“(B) COVERED ITEMS.—An item described in this subparagraph is an article or item of—

“(i) personal protective equipment and clothing (and the materials and components thereof), other than sensors, electronics, or other items added to, and not normally associated with, such personal protective equipment;

“(ii) sanitizing supplies and ancillary medical supplies such as disinfecting wipes, privacy curtains, beds and bedding, testing swabs, gauze and bandages, tents, tarpaulins, covers, or bags; or

“(iii) any other textile medical supplies and textile equipment described in paragraph (1).

“(C) AVAILABILITY EXCEPTION.—Subparagraph (A) shall not apply to an item described in subparagraph (B)—

“(i) that is, or that includes, a material listed in section 25.104 of the Federal Acquisition Regulation as one for which a non-availability determination has been made;

“(ii) as to which the Secretary determines that a sufficient quantity of a satisfactory quality of such item that is grown, reprocessed, reused, or produced in the United States cannot be procured as, and when, needed; or

“(iii) if, after maximizing to the extent feasible sources consistent with subparagraph (A), the Secretary certifies every 120 days that it is necessary to procure products under this paragraph under expedited procedures to respond to the immediate needs of a public health emergency pursuant to section 319.

“(D) CONSULTATION.—The Secretary shall consult with the United States Trade Representative on a matter under this subsection that concerns an obligation of the United States under any international trade agreement.

“(E) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER PROCUREMENT CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any procurement contracts of an item described in subparagraph (B), if the Secretary applies the exception described in subparagraph (C) with respect to that procurement contract, the Secretary shall, not later than 7 days after the awarding of the procurement contract, post a notification that the exception has been applied on the relevant Internet website maintained by the General Services Administration, except for any information that is exempt from mandatory disclosure under section 552 of title 5, United States Code.

“(F) TRAINING DURING FISCAL YEAR 2022.—

“(i) IN GENERAL.—The Secretary shall ensure that each member of the acquisition workforce in the Department of Health and Human Services who participates substantially on a regular basis in procurements related to the maintenance of the Strategic National Stockpile receives training during fiscal year 2022 on the requirements of this paragraph. During such training, the Secretary shall engage with manufacturers and distributors of items described in subparagraph (B) to take into consideration availability of such items and facilitate processes pursuant to this paragraph.

“(ii) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition workforce, as described in clause (i), developed or implemented after fiscal year 2022, includes comprehensive information on the requirements described in subparagraph (A).

“(G) EFFECTIVE DATE.—The Secretary shall increase the percentage of contracts by value entered into for products described in subparagraph (B) incrementally to 100 percent as soon as practicable, but in no event later than the end of the 5-year period beginning on the date of enactment of this paragraph. The Secretary shall notify the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives within 60 days of such date of enactment regarding the percentage of products described in subparagraph (B) that meet the requirements of this paragraph.

“(H) REPORT.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report assessing the implementation of this paragraph and the feasibility of applying the requirements of this paragraph to—

“(i) not less than 50 percent of contracts by value entered into for products described in subparagraph (B) by September 30, 2022;

“(ii) not less than 75 percent of contracts by value entered into for products described in subparagraph (B) by March 31, 2023; and

“(iii) not less than 100 percent of contracts by value entered into for products described in subparagraph (B) by a date that is not less than 2 years after the date of enactment of this paragraph.”.

SEC. 61. INVESTMENT CREDIT FOR QUALIFYING MEDICAL PERSONAL PROTECTIVE EQUIPMENT MANUFACTURING PROJECTS.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 48C the following new section:

“SEC. 48D. QUALIFYING MEDICAL PERSONAL PROTECTIVE EQUIPMENT MANUFACTURING PROJECT CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the qualifying medical personal protective equipment manufacturing project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying medical personal protective equipment manufacturing project of the taxpayer.

“(b) QUALIFIED INVESTMENT.—

“(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is—

“(A) in the case of any eligible property placed in service by the taxpayer during such taxable year, the basis of such property, and

“(B) in the case of any property previously placed in service by the taxpayer during any period before such taxable year which qualifies as eligible property for such taxable year, the adjusted basis of such property (as determined as of the beginning of such taxable year).

“(2) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

“(3) LIMITATION.—The amount which is treated as the qualified investment for all taxable years with respect to any qualifying medical personal protective equipment manufacturing project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

“(c) DEFINITIONS.—

“(1) QUALIFYING MEDICAL PERSONAL PROTECTIVE EQUIPMENT MANUFACTURING PROJECT.—

“(A) IN GENERAL.—The term ‘qualifying medical personal protective equipment manufacturing project’ means a project—

“(i) which re-equips, expands, establishes, or continues a manufacturing facility for the production of—

“(I) any item described in paragraph (7)(B) of section 319F-2(a) of the Public Health Service Act (42 U.S.C. 247d-6b(a)), or

“(II) any textile products for medical applications which are not described in subclause (I), as identified by the Secretary, in consultation with the Secretary of Health and Human Services, and

“(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

“(B) EXCEPTION.—Subclause (I) of subparagraph (A)(i) shall not include sensors, electronics, or other items added to, and not normally associated with, equipment or clothing described in such subclause.

“(2) ELIGIBLE PROPERTY.—The term ‘eligible property’ means any property—

“(A) which is necessary for the production of property described in paragraph (1)(A)(i),

“(B) which is—

“(i) tangible personal property, or

“(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the manufacturing facility described in such paragraph,

“(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

“(D) which is part of a qualifying medical personal protective equipment manufacturing project.

“(d) QUALIFYING MEDICAL PERSONAL PROTECTIVE EQUIPMENT MANUFACTURING PROJECT PROGRAM.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Health and Human Services, shall establish a qualifying medical personal protective equipment manufacturing project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying medical personal protective equipment manufacturing project sponsors.

“(B) LIMITATION.—The total amount of credits that may be allocated under the program shall not exceed \$7,500,000,000.

“(2) CERTIFICATION.—

“(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application (containing such information as the Secretary may require) during the 1-year period beginning on the date the Secretary establishes the program under paragraph (1).

“(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 1 year from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

“(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 2 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period, then the certification shall no longer be valid.

“(3) SELECTION CRITERIA.—In determining which qualifying medical personal protective equipment manufacturing projects to certify under this section, the Secretary shall take into consideration which projects—

“(A) will provide the greatest net increase in job creation (both direct and indirect) within the United States (as defined in section 4612(a)(4)) during the credit period,

“(B) will provide the largest net increase in the amount of medical personal protective

equipment for which there is the greatest need for purposes of the Strategic National Stockpile (as described in section 319F-2(a) of the Public Health Service Act (42 U.S.C. 247d-6b(a))),

“(C) have the greatest potential to help achieve medical manufacturing independence for the United States, and

“(D) have the greatest potential to meet current demand or sudden surges in demand for personal protective equipment.

“(4) REVIEW AND REDISTRIBUTION.—

“(A) REVIEW.—Not later than 3 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of such date.

“(B) REDISTRIBUTION.—The Secretary may reallocate credits awarded under this section if the Secretary determines that—

“(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

“(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

“(C) REALLOCATION.—If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

“(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

“(e) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under any provision of this chapter with respect to any amount taken in account in determining the credit allowed to a taxpayer under this section.”

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of the Internal Revenue Code of 1986 is amended—

(A) by striking “and” at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting “, and”; and

(C) by adding at the end the following:

“(7) the qualifying medical personal protective equipment manufacturing project credit.”

(2) Section 49(a)(1)(C) of such Code is amended—

(A) by striking “and” at the end of clause (iv);

(B) by striking the period at the end of clause (v) and inserting “, and”; and

(C) by adding at the end the following:

“(vi) the basis of any property which is part of a qualifying medical personal protective equipment manufacturing project under section 48D.”

(3) Section 50(a)(2)(E) of such Code is amended by striking “or 48C(b)(2)” and inserting “, 48C(b)(2), or 48D(b)(2)”.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48C the following new item:

“Sec. 48D. Qualifying medical personal protective equipment manufacturing project credit.”

(c) TREATMENT UNDER BASE EROSION TAX.—Section 59A(b)(1)(B)(ii) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

“(II) the credit allowed under section 38 for the taxable year which is properly allocable

to the portion of the investment credit determined under section 46 that is properly allocable to section 48D(a), plus”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to projects certified after the date of enactment of this Act.

SA 1588. Mr. COONS (for himself, Mr. GRAHAM, Mr. LUJÁN, and Mr. BAR-RASSO) submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V of division B, insert the following:

SEC. 25. FOUNDATION FOR ENERGY SECURITY AND INNOVATION.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term “Board” means the Board of Directors described in subsection (b)(2)(A).

(2) DEPARTMENT.—The term “Department” means the Department of Energy.

(3) EXECUTIVE DIRECTOR.—The term “Executive Director” means the Executive Director described in subsection (b)(5)(A).

(4) FOUNDATION.—The term “Foundation” means the Foundation for Energy Security and Innovation established under subsection (b)(1).

(5) INDIVIDUAL LABORATORY-ASSOCIATED FOUNDATION.—The term “Individual Laboratory-Associated Foundation” means a Laboratory Foundation established by an operating contractor of a National Laboratory.

(6) NATIONAL LABORATORY.—The term “National Laboratory” has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(7) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(b) FOUNDATION FOR ENERGY SECURITY AND INNOVATION.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a nonprofit corporation to be known as the “Foundation for Energy Security and Innovation”.

(B) MISSION.—The mission of the Foundation shall be—

(i) to support the mission of the Department; and

(ii) to advance collaboration with energy researchers, institutions of higher education, industry, and nonprofit and philanthropic organizations to accelerate the commercialization of energy technologies.

(C) LIMITATION.—The Foundation shall not be an agency or instrumentality of the Federal Government.

(D) TAX-EXEMPT STATUS.—The Board shall take all necessary and appropriate steps to ensure that the Foundation is an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code.

(E) COLLABORATION WITH EXISTING ORGANIZATIONS.—The Secretary may collaborate with 1 or more organizations to establish the Foundation and carry out the activities of the Foundation.

(2) BOARD OF DIRECTORS.—

(A) ESTABLISHMENT.—The Foundation shall be governed by a Board of Directors.

(B) COMPOSITION.—

(i) IN GENERAL.—The Board shall be composed of the ex officio nonvoting members described in clause (ii) and the appointed voting members described in clause (iii).

(ii) EX OFFICIO MEMBERS.—The ex officio members of the Board shall be the following individuals or designees of those individuals:

(I) The Secretary.

(II) The Under Secretary for Science and Energy.

(III) The Under Secretary for Nuclear Security.

(IV) The Chief Commercialization Officer.

(iii) APPOINTED MEMBERS.—

(I) INITIAL MEMBERS.—The Secretary and the other ex officio members of the Board shall—

(aa) seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine to develop a list of individuals to serve as members of the Board who are well-qualified and will meet the requirements of subclauses (II) and (III); and

(bb) appoint the initial members of the Board from that list, if applicable, in consultation with the National Academies of Sciences, Engineering, and Medicine.

(II) REPRESENTATION.—The appointed members of the Board shall reflect a broad cross-section of stakeholders from academia, industry, nonprofit organizations, State or local governments, the investment community, and the philanthropic community.

(III) EXPERIENCE.—The Secretary shall ensure that a majority of the appointed members of the Board—

(aa)(AA) has experience in the energy sector;

(BB) has research experience in the energy field; or

(CC) has experience in technology commercialization or foundation operations; and

(bb) to the extent practicable, represents diverse regions, sectors, and communities.

(C) CHAIR AND VICE CHAIR.—

(i) IN GENERAL.—The Board shall designate from among the members of the Board—

(I) an individual to serve as Chair of the Board; and

(II) an individual to serve as Vice Chair of the Board.

(ii) TERMS.—The term of service of the Chair and Vice Chair of the Board shall end on the earlier of—

(I) the date that is 3 years after the date on which the Chair or Vice Chair of the Board, as applicable, is designated for the position; and

(II) the last day of the term of service of the member, as determined under subparagraph (D)(i), who is designated to be Chair or Vice Chair of the Board, as applicable.

(iii) REPRESENTATION.—The Chair and Vice Chair of the Board—

(I) shall not be representatives of the same area of subject matter expertise, or entity, as applicable, under subparagraph (B)(iii)(II); and

(II) shall not be representatives of any area of subject matter expertise, or entity, as applicable, represented by the immediately preceding Chair and Vice Chair of the Board.

(D) TERMS AND VACANCIES.—

(i) TERMS.—

(I) IN GENERAL.—The term of service of each appointed member of the Board shall be not more than 5 years.

(II) INITIAL APPOINTED MEMBERS.—Of the initial members of the Board appointed under subparagraph (B)(iii)(I), half of the members shall serve for 4 years and half of the members shall serve for 5 years, as determined by the Chair of the Board.